

## § 10.13

(2) Upon receiving this notice, the Director, Office of Hearings and Appeals, appoints an ad hoc appeals board to hear and decide an appeal. To the extent they are not inconsistent with the regulations in this part the provision of the Department of Hearings and Appeals Procedures in 43 CFR part 4, subparts A, B, and G apply to such appeal proceedings. The appeal board's decision on the appeal must be in writing and takes effect as the final administrative determination of the Secretary on the date it is rendered, unless otherwise specified in the decision.

(3) You may obtain copies of decisions in civil penalty proceedings instituted under the Act by sending a request to the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203-1923. Fees for this service are established by the Director of that Office.

(k) *The final administrative decision.*

(1) When you have been served with a notice of a failure to comply and have accepted the penalty as provided in the regulations in this part, the notice constitutes the final administrative decision;

(2) When you have been served with a notice of assessment and have not filed a timely request for a hearing as provided in the regulations in this part, the notice of assessment constitutes the final administrative decision.

(3) When you have been served with a notice of assessment and have filed a timely request for a hearing as provided in these regulations in this part, the decision resulting from the hearing or any applicable administrative appeal from it constitutes the final administrative decision.

(l) *How you pay the penalty.* (1) If you are assessed a civil penalty, you have 45 calendar days from the date of issuance of the final administrative decision to make full payment of the penalty assessed to the Secretary, unless you have filed a timely request for appeal with a court of competent jurisdiction.

(2) If you fail to pay the penalty, the Secretary may request the Attorney General to institute a civil action to collect the penalty in the U.S. District Court for the district in which your

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museum is located. Where the Secretary is not represented by the Attorney General, the Secretary may start civil action directly. In these actions, the validity and amount of the penalty will not be subject to review by the court.

(3) Assessing a penalty under this section is not a waiver by the Secretary of the right to pursue other available legal or administrative remedies.

[62 FR 1821, Jan. 13, 1997]

### § 10.13 Future applicability. [Reserved]

## Subpart D—General

### § 10.14 Lineal descent and cultural affiliation.

(a) *General.* This section identifies procedures for determining lineal descent and cultural affiliation between present-day individuals and Indian tribes or Native Hawaiian organizations and human remains, funerary objects, sacred objects, or objects of cultural patrimony in museum or Federal agency collections or excavated intentionally or discovered inadvertently from Federal lands. They may also be used by Indian tribes and Native Hawaiian organizations with respect to tribal lands.

(b) *Criteria for determining lineal descent.* A lineal descendant is an individual tracing his or her ancestry directly and without interruption by means of the traditional kinship system of the appropriate Indian tribe or Native Hawaiian organization or by the common law system of descent to a known Native American individual whose remains, funerary objects, or sacred objects are being requested under these regulations. This standard requires that the earlier person be identified as an individual whose descendants can be traced.

(c) *Criteria for determining cultural affiliation.* Cultural affiliation means a relationship of shared group identity that may be reasonably traced historically or prehistorically between a present-day Indian tribe or Native Hawaiian organization and an identifiable earlier group. All of the following requirements must be met to determine